IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 28TH MAY 2007 / 7TH JYAISHTA 1929

WP(C).No. 14886 of 2007(V)

OA.96/2002 of DEBT RECOVERY TRIBUNAL, ERNAKULAM

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PETITIONER:

SABU, S/O.KRISHNAN,
ADIPARAMBIL HOUSE, TRIKKUR P.O.

BY ADV. SRI.SAIBY JOSE KIDANGOOR

RESPONDENTS:

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1. THE SOUTH INDIAN BANK LTD.,
TRICHUR, A BANKING COMPANY, REG. UNDER THE
COMPANIES ACT 1956, REP. BY ITS MANAGER,
KARUNAGAPPALLY BRANCH, KOLLAM DISTRICT.

2. TRICHUR JEWELERS, OPP: A.M.HOSPITAL,
KARUNAGAPPILLY.

3. THE RECOVERY OFFICER,
OFFICE OF THE DEBTS RECOVERY TRIBUNAL,
ERNAKULAM.

4. JINSON RAPHEL, NEDUMBAKKARAN HOUSE,
ANCHERI P.O., TRICHUR.

5. DAVY RAPHEL, DO.DO.

6. MARY RAPHEL, DO.DO.

7. REENA C.O., CHAMAVALAPPIL HOUSE,
THIRITHAMANGALAM P.O., PALAKKAD.

R1 BY SC SRI. K.PRABHAKARAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 28/05/2007, ALONG WITH WPC NO. 15865 OF 2007 WPC NO. 15786 OF 2007 WPC NO. 15784 OF 2000 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 14886,15865,15786,
& 15784 OF 2007

Dated this the 28th day of May, 2007

JUDGMENT

Petitioners are challenging sale of their property effected by recovery officer pursuant to recovery certificate issued by DRT. According to petitioners, petitioners are bona fide purchasers of the said property. However, standing counsel for the first respondent-Bank submitted that borrowers who pledged the property were parties to collusive suit that led to exparte decree between parties pursuant to which court sold property to some others from whom the petitioners purchased thereafter. In other words, according to the Bank with the help of borrowers, the mortgaged properties were decreed in favour of the plaintiffs who after getting court decree got the properties sold to some others from whom petitioners purchased. In view of the controversy on facts, I do not think the dispute between the petitioners and Bank can be settled in this Court. Petitioners also have got an alternate remedy of appeal against recovery proceedings before the

DRT. W.Ps. are accordingly closed leaving freedom to the petitioners to file appeal before the DRT. In view of the above allegations, DRT should critically examine prior deals and happenings to ensure that fraud is not perpetrated on the Bank. If debtors are found to be engaged in fraud, DRT should order their prosecution.

(C.N.RAMACHANDRAN NAIR)
Judge